

Asian Resonance

Judicial Administration Under Bahamani and Adil Shahi Kingdom

Abstract

Monarchy was the usual form of government in the Medieval Ages. Even in Europe and in Asiatic states outside India, this was the only form of Government. The Medieval King was necessarily the "Leviathan" of Hobbes enjoying all the "Divine Rights". The Central Government during the middle ages was only the apparition of the ruling kings. The king, as it were, was the revolving moon round the earth. He gave brightness and guided all the deliberations. Monarchy, however, was not absolute. Public opinion was a potent factor. But it cannot be denied that judicial administration during the medieval period was highly centralized. The king was the fountainhead of justice and decided most of the important cases personally. Even prominent Officials and Nobles were permitted to go unpunished for their acts of highhandedness and crimes, by the strong rulers who ruled the Bahamani and Adil Shahi kingdom. Therefore, it becomes inevitable to study the judicial administration of Bahamani and Adil Shahi kingdom to understand the over all administrative nature of their counterpart kingdom. With this objective, the present article intends to portray the picture of judicial administration in Bahamani and Adil Shahi kingdom.

Keywords: Judicial Administration, Government officers, The Department of Justice, Panchyath Authority, Kotwal and prison, Chief Sadr and the Chief Qazi, Justice under the King, Judicial Functionaries, The Ministry



Sanjeev Kumar Tandle

HOD

Deptt. of History
Govt. First Grade College
Manhalli, TQ
Distt. Bidar, Karnataka

Introduction

The state Bahamani was theocratic in nature. All the necessary elements of theocracy, the sovereignty of God and government by direction of God through priests and in accordance with the divine law were present. The Bahamani Sultans considered themselves as deputies or vice-regents of God on earth. They were given honorific titles such as "Candle of the Family of Khilafa", "Lord of the World and mankind". In theory, the power of the Sultan was undisputed. He was the fountainhead of all authority. He was "the supreme governor of the realm, the final court of appeal, the chief law giver and the chief commander of forces." In spite of this, he could not afford to be an absolute despot. He had to abide by the Shariat, listen to the advice of the Ulema and avoid such unpopular measures, which may lead to rebellion. Moreover, there was a council of ministers, which advised the king on all political, religious and judicial matters. It was not a regularly constituted body nor was the number of its members or its tenure fixed. They held office at the pleasure of the king". [1]

Judicial Administration

There are ample evidence to support the assumption that the Bahmanis continued to maintain a department of law and justice. The king was the highest court of appeal. He decided the cases in consultation with the qazis and muftis. While Ahmad Nizam Shah was quite lenient in awarding punishment and would let off an accused if he admitted his guilt, Burhan Nizam Shah severely punished the criminals. Murtaza Nizam Shah I had ordered "a chain of justice should be hung in the plains of Kala Chabutra". Jahangir adopted this practice later. He had made it a practice to hear appeals at Ahmadnagar where he would invite leading jurists. The department of endowment and trusts was quite important. It dealt with all the money given in charity by the state nobles and other philanthropists.

As in other contemporary Muslim state in the Deccan and in Northern India, Sultan was the fountainhead of justice and the highest court of appeal. There are frequent references to the royal court of justice over which the king presided. He was advised by the ulema and the Brahmans. Next to the sultan was the Chief Justice or the Chief Qazi. Vazirs and Amirs were the other officers of the judiciary who administered justice in the areas under their jurisdiction. They would nominate their deputies who performed this function in consultation with the Majlis. The decision of the

Asian Resonance

Majlis had the legal authority. Before bringing the cases before the Majlis, the government officers at the centre as well as in the districts tried to settle the disputes between the parties concerned and the gota. The government officers' judicial duties included registration of sutis, supervision of the proceedings of the gotasabha and execution of the orders of the Majlis.

Goverment officers :

The government officers of a Paragana were the Diwan, the Qazi, Havaladar and the Majalasi or Sabhasad. Other officers were Deshmukh and Deshpande, besides Watandars and Mirasdars. The jurisdictions of the Pargana Mujlis were confined to civil cases only. The Thanedar of a tarf or karyat acted as the primary judicial authority, which was confined to civil suits only. Sometimes the Pargana and the Thana Majlis were called at the fort in the division to try cases. It is thus apart that the administrative, judicial and revenue structure at the village, taluka and district level continued as before and was left mostly to the local people. The traditional institutions such as the "Village Panchayat, the Gota Sabhas, the Mahazaras, the hereditary Watandars, Patil, Kulkarni, Deshmukh and Deshpande reduced to a great extent any effective interference from the courts of these kingdoms."

The Department of Justice :

The department of justice was perhaps the weakest and most ill organized. The Sultan being the fountainhead of justice, was responsible for upholding and maintaining the Quoranic law, which in history was the only law organized by the government of Bahamani Kingdom. Justice as administered according to the established religious practices. Elaboratively furnished courthouses were absent and law was not codified. A number of Qazis assisted the Sultan in this work.[2] The Qazis had another task to perform. They looked after religious endowments and distributed charity on behalf of their Master. There was no proper grading of the courts with clearly defined jurisdictions the suitors could lodge their complaint anywhere they liked. The highest court of appeal also tried original cases, that is, in the first instance. The procedure was not uniform all over the kingdom. The proceedings of the court were not recorded and the trials were conducted in a summary fashion. The panel was severe, Culprites were usually punished with mutilation and death. The usual practice was to make use of force and torture to extort confession from the convicts.

Usually the cases were decided with reference to the Quran. But in civil cases in which the parties were Hindus due regard was paid to their customs, usage and law. The criminal law was the same for all. During the reign of Ibrahim Adilshah II we came across two instances in which the cases were referred to Banaras and Paithan to be decided by the Pandits there. [3] But there were exceptions and not the rule. Usually appeals from the subordinates were decided by the Jagirdars of the Paraganah concerned or his officers. The sultan was, however, the final lawgiver and the supreme court of

the Bijapur kingdom. It was open to all to appeal to him but this privilege was rarely used. At the royal court there was a machinery to enquire into the disputes. The decisions were then forwarded to the local officers concerned, under the seal of king. [4] As far as Europeans were concerned, the sultan was the only source of justice. During the illness of Muhammed Adilshah the English factors could not obtain redress for their complaints. [5]

In small villages and talukas the judicial authority vested in Amanna, Thanedars who after proper investigation forwarded the file to the Qazi who adjudicated upon the case. [6] But Amanna and Thanedars had only criminal powers and administered justice to both Hindus and Muslims. The right of appeal lapsed after one month. The administration of justice was run according to the dictates of the Quran. The Bahamanids did not appoint Brahmin Pandits like the Moghuls to hear the case of the Hindus and dispense justice in accordance with their sacred books. This work was left to be done by the Village Panchayats who exercised limited civil powers. Land disputes were occasionally referred to Thanedars and Tarafdars. Ferishta and the author of Burhan-I-Maasir write that the king sometimes heard cases in the Sadr-Adalat and supervised the deliberations of the Sadr-jehan. Mohammad Shah II is reported to have heard a peculiar case of adultery. The Qazi asked the accused woman why she had committed adultery. The woman replied that since the very male person had the right to associate himself with four women, she appropriated to herself a similar right. But when she was told that no such right existed for women., She confessed her guilt and pleaded for innocence. The king was amazed at her wit and directed the Qazi to acquit her. [6].

Panchyath Authority :

In the Villages the Panchayats decided minor disputes. The principal officer of the village was Patil. His function was to effect reconciliation between the rival parties. If, however, an amicable settlement could not be arrived at, the matter was referred to the Village Council or Panchayat for trial and decision. The village council consisted of the Patil, the Kulkarni, and all the village servants (Balutedars). The judgment of the council was binding upon the litigants [7]. The Panchayat decided the cases on the basis of oral or documentary evidence. In the absence of any evidence, circumstantial and trail by ordeal formed the basis of its decisions. It is not clear whether trail by ordeal really meant an ordeal through fire and water. Trail by ordeal was confined only to the Hindus. Muslims were not subjected to it. In the absence of evidence the usual method of trail was two small notes with the names of the litigants were thrown before the local deity and a child was asked to pick up one. Occasionally betel nuts were used with a slight variation The Panchayats not only decided the disputes but also enforced their decisions. An appeal against the decision of the panchayat could lay before the Qadi of the Parganah or Sarkar and in the last resort before the King. [8].

Asian Resonance

Kotwal and prison :

There was no police worth the name except a Kotwal in important cities. He had a small contingent of men under him and his main duty was to maintain law and order. There was neither police in the villages and even in small towns, neither well maintained prison houses. Old forts and castles were utilized as prisons. The prison administration was tax and corruption among jail officials was common. [9].

Qazis and Sadr Jehan carried on the judicial administration. These appointments were made out of the category of Ulemas. Every province, district and taluka had a Qazi, who had both the criminal and civil powers. His decision in important cases needed ratification. The muftis scrutinized and forwarded their opinion on such cases to Sadr-Jehan for final confirmation. If Sadr-Jehan agreed with the decision of the lower courts, the matter was closed. But if he did not forward the whole life with his own opinion to the king whose judgement was final. Firoz Sha Bahmani effected a very important reform by establishing a "Daftari Shahi" under Vakil-us-Sultanat. [10] Every important case had to be forwarded to it after Sadr-Jehan had given his opinion. It was the duty of the Vakil-us-Sultanat to go into the details of the case and get the approval of the king.

Chief Sadr and the Chief Qazi:

In the administration of Justice, the Chief Sadr and the Chief Qazi assisted the Sultan. While the former assisted the king in deciding the religious cases in accordance with the Shariat, the latter assisted the king in deciding the cases of secular nature. Generally the same person acted as the Chief Qazi (Qazi-ul-Qaza) and Chief Sadr (Sadr-us-Sadr). The Sultan appointed the Chief Qazi and the Chief Sadr as well as the Sadr and the Qazi in the provinces. There was a Qazi in every town who settled the disputes and supervised the property of orphans and lunatics. He also helped the destitute widows to find suitable husbands. It may be noted that the Qazis were not under the control of the Governors of provinces but directly responsible to the Central Government. In the villages the village Panchayats performed the judicial functions. The Chief Qazi supervised the working of the judicial machinery and heard appeals against the decisions of lower courts.

Another notable feature of the judicial administration during the Bahamani period was that the system of grading of courts with clearly defined jurisdictions did not exist. As a result a suitor could lodge a complaint at any level viz, he could go to the city Qazi, the provincial Qazi or even the Sultan's court. Even the judicial procedure was not uniform and was quite rudimentary. Hearing on cases started without proper enquiries; no records of the proceedings of courts were maintained and decisions were taken on the basis of summary trails.

The judicial administration was entrusted to Qazis and Sadr-i-Jahan. They tried both civil and criminal cases in important cases the vies of the muftis were sought and the case referred to Sadr-i-Jahan for his decision. In case the latter did not agree with the judgment of the lower court. he forwarded

the case to the King with his recommendations. Firoz Shah Bahamani set up a daftar- ishahi under wakil us-sultanat. Every important case had to be referred to this department by Sadr-i-jahan. Vakil-us-Sultanat, in his turn, brought these cases to the notice of the king. Amanna and Thanadars tried criminal cases of both Hindus and Muslims in villages and talukas and forwarded them to the Qazis. The shariah was followed in all such cases.

Justice under the King :

The King was of course the final court of justice but he heard only of few cases in sadr-i-adalat. As in other contemporary Muslim states in the Deccan and in Northern India, Sultan was the fountainhead of justice and the highest court of appeal. There are frequent references to the royal court of justice over which the king presided. He was advised by the Ulema and the Brahmins. Next to the Sultan was the Chief Justice or the chief Qazi. Vazirs and Omirs were the other officers of the judiciary who administered justice in the areas under their jurisdiction. They would nominate their deputies who performed this function in consultation with the Majlis. The decision of the Majlis had the legal authority. Before bringing the cases before the Majlis, the government officers at the center as well as in the districts tried to settle the disputes between the parties concerned gotasabha. The government officer's judicial duties included registration of suits, supervision of the proceedings of the gotasabha and execution of the orders of the Majlis.

Judicial Functioneris :

The government officers of a paragona were the Diwan, the Qazi, Havaladar and sabhasad. Other officers were Deshmukh and Deshpande, besides Watandars and Mirasadars. The jurisdictions of the Pargana mujlis were confined to civil cases only. The thanedar of a taraf or karyat acted as the primary judicial authority, which was confined to civil suits only. Sometimes the pargana and the thana Majlis were called at the fort in the division to try cases. It is thus apparent that the administrative, judicial and revenue structure at the Village, taluka and district level continued as before and was left mostly to the local people. The traditional institutions such as the "Village Panchayat, the Got Sabhas, the Mahazaras, the hereditary Watandars, Patil, Kulkarni, Deshmukh and Deshpande reduced to a great extent any effective interference from the courts of these kingdoms."

Kotwal, though not a minister, was yet an important dignitary of metropolis. He was the custodian of law and order and had the privilege to be the eyes and ears of the ruling King. His influence both on the King and the Council of Ministers was penetrating and more than once the Kotwal of the Adil Shahi period displayed a personality of his own.

The Ministry:

The other Ministers were; incharge of justice; incharge of religious affairs; incharge of the Army; and the incharge of the foreign affairs. The Minister judiciary was called 'Sadar-Jehan'. The Qazis and Ulema assisted him in his work. Every Province,

District and Taluk had a Qazi who disposed off all criminal and civil cases in accordance with Quran. A court of justice was held every day outside the forts. The cases of Hindu subjects were disposed off by the local panchayats. Whether Hindu or Mulsim, one could go in appeal to the King. The Bahamani Kings made it a point to appear at the appointed hour in Diwan-i-Am to look into the complaints of the common people and hear their appeals. The traditions as known to us indicate that, while the Bahmani Kings reversed the decisions of the lower courts in the case of Muslims, they refrained from doing so in the case of the Hindus appealing against the decision of the local panchayats. It is pertinent mentioned that Ibrahim Bahmani kings refused to tamper with a decision of the local panchayat in appeal. [11].

CONCLUSION:

Thus, one can find that Judicial Administration in Bahamani and Adil Shahi kingdom was typically medieval in character. The punishments during this period were very severe. Even for ordinary offences punishments of death and mutilation of limbs were inflicted. Even for minor offences heavy fines were imposed. Persons guilty of repeating the same offence were dealt with more severely. But there was no proper grading of the courts in the both kingdoms with clearly defined jurisdictions. The suitors could lodge their complaint anywhere they liked. The proceedings of the court were not recorded and the trial was conducted in a summary fashion. The panel was severe. In Bahamani kingdom, usually the disputes were decided with reference to the Quran. But in civil cases in which the parties were Hindu due regard was paid to their customs usages and law, whereas the criminal law was same for all.

References

1. D.C. Verma "History of Bijapur" Indian Institute of Islamic Studies, Kumar Brothers, New Delhi., p. 233.
2. Muhammad Ibrahim Zubairi, Basatin al-Salatin, p.350.
3. Rajwane, "Marathanchi Itihasanche Sandaanen", Vol. XV.p.22
4. Mummud Ibrahim Zubairi, Basatin al-Salatin, p.349.
5. English Factories in India (1651-54) p.104.
6. Mahbub-ul-Vatan by Abdul Jabbar Malkapuri.
7. Sultan Ahmed Shha Wali by Zahiruddin Ahmed, p.85.
8. Rajwade, Marathanchi Itihasanche Sandhanen, Vol XV.p.435.
9. Mummud Ibrahim Zubairi, Basatin al-Salatin, p.348.
10. Nikitin, "Voyage Beyond Three Seas", p.119.
11. Ibid. p.121.